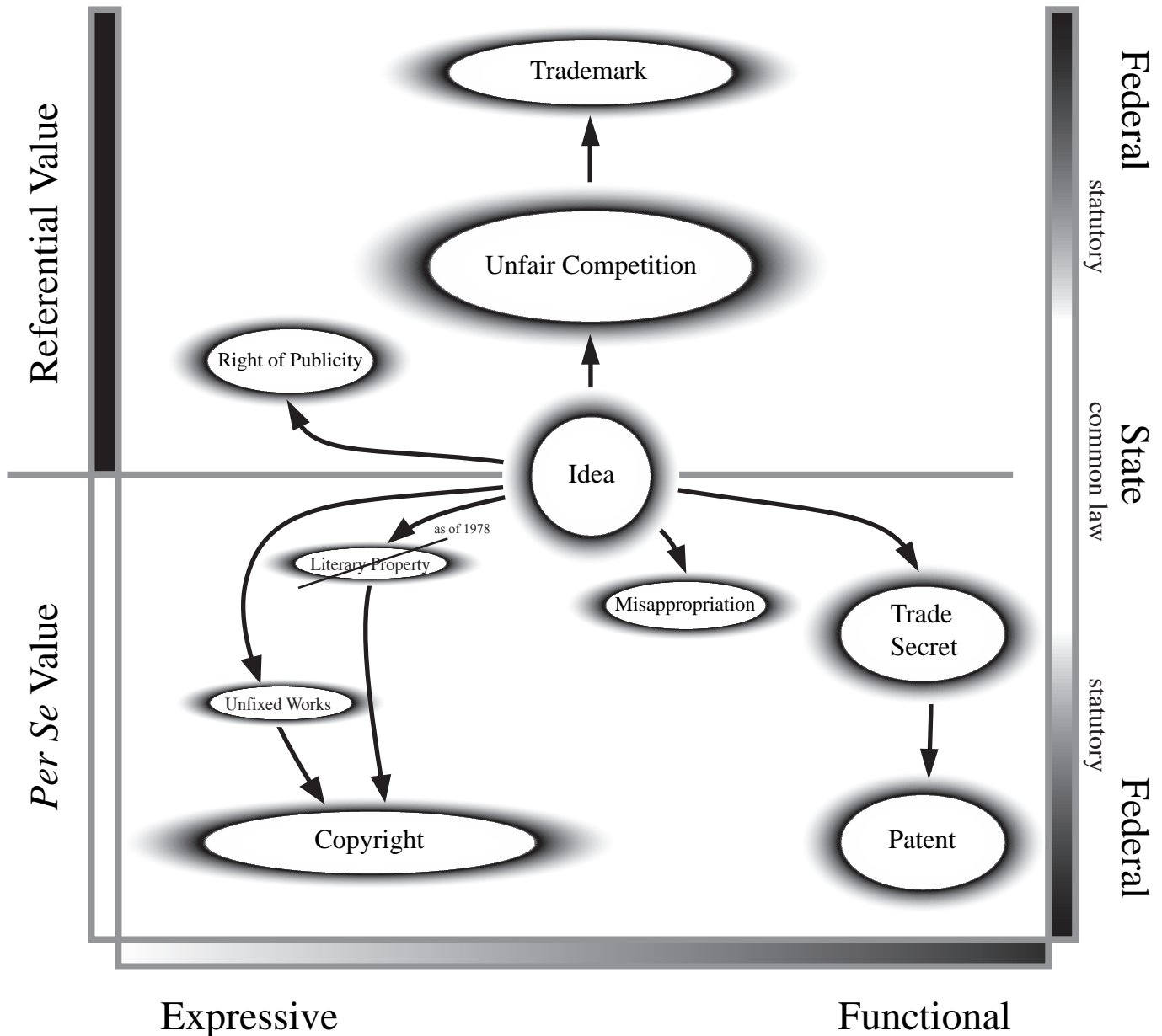


A Map of IP



Notes to the Map

1. The left vertical scale divides IP into two fundamentally different categories. IP above the horizontal divide, such as a trademark, has value only insofar as it helps to identify other things of value. IP below the divide, in contrast, covers intrinsically valuable subject matter. Ask yourself which type of IP you would want on a desert island; those you would choose fall into “valuable *per se*” territory.
2. The right vertical scale shows the source of a type of IP. Towards the middle lies state common law, further out lies state statutory law, and at the extreme lies federal statutory law. Copyright, for instance, depends entirely on federal statutory law. Some types of IP, such as unfair competition, straddle all three categories.
3. The bottom horizontal scale indicates to what degree a particular kind of IP protects expressive or functional subject matter. Copyright stretches from poems to computer programs, for instance, whereas trade secret covers only commercially useful ideas.
4. The arrows indicate how IP develops over time. Every sort of IP begins as an idea. From there, different types of IP move in different directions depending on their subject matter. As a general matter, however, as you follow the arrows out from the center of the map, IP rights grow: a) more developmentally mature; b) more powerful; c) harder to obtain (because the requirements for protection become more stringent and formal); and d) more public and federal.
5. The categories of IP have fuzzy borders here just as they do in practice. Indeed, this map arguably simplifies much of IP’s real-world messiness.